

published on October 1, 1980, 45 FR 64949. The corrected § 0.91 is published below.

EFFECTIVE DATE: April 18, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert P. De Young, Private Radio Bureau, (202) 632-7175.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

SUPPLEMENTARY INFORMATION:

In the Matter of amendment of Part 0 to transfer authority for common carrier matters involving public coast stations to the Private Radio Bureau.

Released: August 19, 1980.

1. In the Order in the above-captioned matter, FCC 80-179 released April 7, 1980, Section 0.91 of the rules was amended to reflect a transfer of function from the Common Carrier Bureau to the Private Radio Bureau (45 FR 25399, April 15, 1980).

2. Section 0.91 of the rules was also amended by Order, FCC 79-882, released March 7, 1980, to reflect the reorganization of the Common Carrier Bureau. Through inadvertence, our Order of April 7, amended the language of the rule prior to its having been amended by our Order of March 7, 1980 (45 FR 16191, March 13, 1980).

3. To correct this situation, Section 0.91 is amended as set forth in the attached appendix, to amend the currently effective language of the rule.

Federal Communications Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

William J. Tricarico,

Secretary.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 0.91 the introductory text is revised to read as follows:

§ 0.91 Functions of the Bureau.

The Common Carrier Bureau develops, recommends and administers policies and programs for the regulation of services, facilities, rates and practices of entities (excluding public coast stations in the maritime mobile service) which furnish interstate or foreign communications service for hire—whether by wire, radio, cable or satellite facilities—and of ancillary operations related to the provisions or use of such services. The Bureau also regulates the rates, terms, and conditions for cable television and pole attachments, where such attachments are not regulated by a state and not provided by railroads or governmentally—or cooperatively owned utilities. The Bureau also

performs the following specific functions:

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Fire Protection Schedules for Operating Nuclear Power Plants

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to temporarily suspend completion schedules for certain fire protection features in operating nuclear plants pending completion of its ongoing comprehensive fire protection rulemaking. This suspension is necessary because some NRC licensees are unable to meet fire protection implementation deadlines contained in licensed conditions. The Commission has found that fire protection measures already implemented give reasonable assurance of safety, and that no health and safety interest would be served by forcing certain licensees to shut down during the brief period between the license condition deadlines and the effectiveness of the final fire protection rule.

EFFECTIVE DATE: October 29, 1980.

FOR FURTHER INFORMATION CONTACT: William Shields, Office of Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-492-8696.

SUPPLEMENTARY INFORMATION: On May 29, 1980, the Commission published in the Federal Register (45 FR 36082) a Notice of Proposed Rulemaking entitled "Fire Protection Program for Nuclear Plants Operating Prior to January 1, 1979." The proposed rule provided that all fire protection modifications except alternate or dedicated shutdown capability would be required to be implemented by November 1, 1980, unless the Commission approve an extension for good cause. This deadline was also stated in the Commission's May 27, 1980 Memorandum and Order on the Union of Concerned Scientists Petition for Emergency and Remedial Action. 11 NRC 707, 719.

Many of the commenters on the proposed rule contended that the November 1 deadline was unachievable. Moreover, much more time than was

earlier anticipated has been required to prepare a final rule on fire protection. Although the final rule is near completion, and will incorporate an implementation schedule different from that in the proposed rule, it has not yet been published and in any event would not be effective until 90 days after publication.

Certain NRC licensees, however, are at present operating under license conditions or technical specifications thereto which include the November 1 deadline or other dates which will precede the effective date of the final rule. To the extent that these licensees have been unable to complete all of the fire protection measures to which these deadlines apply, continued operation would violate the license conditions. The violation would extend only until the final rule becomes effective, since the implementation schedule contained in the final rule will supersede inconsistent license conditions.

The Commission has determined, based upon a review of the entire record in this rulemaking, that relief from these license conditions is appropriate pending promulgation of the final rule on fire protection applicable to all NRC licensees. Extensive fire protection measures have already been implemented at all operating plants. The implementation schedule of the final rule will be uniform and comprehensive, and will apply to all operating plants including those with different schedules contained in license conditions. No public health and safety interest would be served by forcing only those licensees unable to meet deadlines preceding the effectiveness of the final rule to shut down for the brief interim. To the contrary, the fire protection measures already implemented give reasonable assurance that all operating nuclear plants may continue to operate safely even though the final rule will require additional fire protection measures at many plants.

The Administrative Procedure Act provides that a rule may be effective upon publication when that rule "grants or recognizes an exception or relieves a restriction." 5 U.S.C. 553(d)(1). This rule relieves certain NRC licensees from license conditions or technical specifications thereto in regard to fire protection implementation deadlines, and will therefore be effective upon the date of publication in the Federal Register. Furthermore, as noted above, the proposed rule stated that extensions from the November 1, deadline would be considered for good cause. Extensive public comment was received to the effect that the deadline was unrealistic

and should be revised. Under these circumstances the Commission believes that there is good cause for an extension of the license condition schedules pending effectiveness of the final rule on fire protection.

The rule provides that all compliance dates contained in license conditions or technical specifications for required fire protection measures are suspended pending further action by the Commission. As is clear from the above discussion, that further action will be promulgation of the final rule on fire protection. The Commission intends that licensees affected by this rule should use best efforts to complete all required measures as soon as possible despite the suspension of the deadlines for this brief period.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 50, is published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. A new Section 50.48 is added to read as follows:

§ 50.48 Fire protection schedules.

To the extent that any facility's license conditions or technical specifications incorporate compliance dates for modifications necessary to provide fire protection features proposed by a licensee and accepted by the NRC staff as satisfying the provisions of Appendix A to Branch Technical Position BTP/APCSB 9.5-1 and reflected in NRC staff Fire Protection Safety Evaluation Reports issued prior to the effective date of this rule, those dates are hereby suspended pending further action by the Commission.

(Sec. 161b, Pub. Law 83-703, 68 Stat. 948; Sec. 201, Pub. Law 93-438, 88 Stat. 1242 (42 U.S.C. 2201(b), 5841))

Dated at Washington, D.C. this 27th day of October 1980

For the Nuclear Regulatory Commission.

Samuel C. Chilk,
Secretary of the Commission.

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